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12
13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 SAN FRANCISCO DIVISION

16 GOOGLE LLC,

17 Plaintiff,

18 vs.

19 SONOS, INC.,

20 Defendant.
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Case No. 3:20-cv-06754-WHA

Related to Case No. 3:21-cv-07559-WHA

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF ITS REPLY IN SUPPORT
OF ITS MOTION TO STRIKE
PORTIONS OF THE EXPERT REPORTS
OF DOUGLAS SCHMIDT**

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Google LLC (“Google”) hereby requests to file under seal portions of its Reply in Support of its Motion to Strike Portions of the Expert Reports of Douglas Schmidt (“Reply”). Specifically, Google requests an order granting leave to file under seal the portions of the document listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Google’s Reply	Portions highlighted in yellow and green; portions outlined in red boxes	Google
Exhibit 1 to the Declaration of Nima Hefazi in Support of Google’s Reply (“Exhibit 1”)	Portions outlined in red boxes	Google
Exhibit 2 to the Declaration of Nima Hefazi in Support of Google’s (“Exhibit 2”)	Portions outlined in red boxes	Google
Exhibit 3 to the Declaration of Nima Hefazi in Support of Google’s Reply (“Exhibit 3”)	Portions outlined in red boxes	Google

II. LEGAL STANDARD

Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal must file an administrative motion that articulates the applicable legal standard and reasons for keeping a document under seal, includes evidentiary support from a declaration where necessary, and provides a proposed order that is narrowly tailored to seal only the sealable material.

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). In the Ninth Circuit, two different standards may apply to a request to seal a document – namely the “compelling reasons” standard or the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). “To seal records in connection with a ‘dispositive’ motion or a motion that ‘more than tangentially relate[s] to the merits

1 of a case,’ ‘compelling reasons supported by specific factual findings that outweigh the general
 2 history of access and the public policies favoring disclosure’ are required.” *Bronson v. Samsung*
 3 *Elects. Am., Inc.*, No. C 18-02300 WHA, 2019 WL 7810811, at *1 (N.D. Cal. May 28, 2019) (quoting
 4 *Kamakana*, 447 F.3d at 1178-79). “A particularized showing of ‘good cause’ under Federal Rule
 5 of Civil Procedure 26(c), however, suffices to warrant sealing in connection with a non-dispositive
 6 motion.” *Id.* This Court has analyzed sealing requests in connection with motions to strike pursuant
 7 to the “good cause” standard for non-dispositive motions. *See, e.g., Mendell v. Am. Med. Response,*
 8 *Inc.*, No. 19-CV-01227-BAS-KSC, 2021 WL 398486, at *2 (S.D. Cal. Feb. 3, 2021).

9 **III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION**

10 Courts have repeatedly found it appropriate to seal documents that contain “business
 11 information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 589-99. Good
 12 cause to seal is shown when a party seeks to seal materials that “contain[] confidential information
 13 about the operation of [the party’s] products and that public disclosure could harm [the party] by
 14 disclosing confidential technical information.” *Digital Reg. of Texas, LLC v. Adobe Sys., Inc.*, No.
 15 C 12–1971 CW, 2014 WL 6986068, at *1 (N.D. Cal. Dec. 10, 2014).

16 The portions of Google’s Reply highlighted in yellow and green and outlined in red boxes,
 17 as well as the portions of Exhibits 1, 2, and 3 outlined in red boxes, contain confidential information
 18 and trade secrets regarding highly sensitive features of Google’s products. Specifically, the above-
 19 listed documents contain source code for, and detail the operation and system design of, Google
 20 products and functionalities that Sonos accuses of infringement and/or that Google believes is prior
 21 art. Public disclosure of this information would harm the competitive standing Google has earned
 22 through years of innovation and careful deliberation by revealing sensitive aspects of Google’s
 23 proprietary systems, strategies, designs, and practices to Google’s competitors. Declaration of Nima
 24 Hefazi in Support of Google’s Administrative Motion ¶ 4. Thus, Google has good cause to keep
 25 such information under seal. *See, e.g., Guzik Tech. Enterprises, Inc. v. W. Digital Corp.*, No. 5:11-
 26 CV-03786-PSG, 2013 WL 6199629, at *4 (N.D. Cal. Nov. 27, 2013) (sealing exhibit containing
 27 “significant references to and discussion regarding the technical features” of a litigant’s products).
 28 *Cf. See e.g., Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, No. 12–cv–03844–JST, 2015

1 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015) (materials that detail product architecture are even
 2 “appropriately sealable under the ‘compelling reasons’ standard where that information could be
 3 used to the company’s competitive disadvantage”) (citation omitted); *Delphix Corp. v. Actifo, Inc.*,
 4 No. 13-cv-04613-BLF, 2014 WL 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (finding compelling
 5 reasons to seal where court filings contained “highly sensitive information regarding [an entity’s
 6 confidential] product architecture and development”).

7 **IV. CONCLUSION**

8 For the foregoing reasons, Google respectfully requests that the Court grant Google’s
 9 Administrative Motion to File Under Seal Portions of its Reply in Support of its Motion to Strike
 10 Portions of the Expert Reports of Douglas Schmidt.

11
 12 DATED: February 17, 2023

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 LLP

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ATTESTATION

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on February 17, 2023, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

DATED: February 17, 2023

By: /s/ Charles K. Verhoeven
Charles K. Verhoeven